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STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Land Division  
Honolulu, Hawaii 96813

April 13, 2012

Board of Land and Natural Resources  
State of Hawaii  
Honolulu, Hawaii

PSF No.: 09MD-152

Maui

Grant of Term, Non-Exclusive Easement and Immediate Right-of Entry, to Auwahi Wind Energy, LLC for Access Purposes; Mooiki, Mooloa, Moomuku, Onau, Kanahena Kualapa, Kalihi; Honuaula; Maui; Tax Map Key: (2) 2-1-004: 049 and (2) 2-1-005: 055 & 077.

APPLICANT:

Auwahi Wind Energy, LLC, a limited liability corporation

LEGAL REFERENCE:

Section 171-95, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Mooiki, Mooloa, Moomuku, Onau, Kanahena Kualapa, Kalihi; Honuaula; Maui; identified by Tax Map Key: (2) 2-1-004: 049 and (2) 2-1-005: 055 & 077, as shown on the attached maps labeled Exhibit A & B.

AREA:

15 acres, more or less.

ZONING:

State Land Use District:	Agriculture
County of Maui CZO:	Agriculture

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to Hawaii State Constitution: YES \_\_ NO X

CURRENT USE STATUS:

Vacant and unencumbered.

CHARACTER OF USE:

Right, privilege and authority to construct, use, maintain and repair a right-of-way over and across State-owned land.

COMMENCEMENT DATE:

To be determined by the Chairperson.

CONSIDERATION:

One-time payment to be determined by independent appraisal establishing fair market rent, subject to review and approval by the Chairperson.

EASEMENT TERM:

Fifty (50) years.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

The Final Environmental Impact Statement acceptance notice for the subject project was published in the OEQC's Environmental Notice on August 23, 2011.

DCCA VERIFICATION:

Place of business registration confirmed:	YES <u>X</u>	NO __
Registered business name confirmed:	YES <u>X</u>	NO __
Applicant in good standing confirmed:	YES <u>X</u>	NO __

APPLICANT REQUIREMENTS:

Applicant shall be required to:

- 1) Pay for an appraisal to determine one-time payment;

- 2) Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost;
- 3) Install access gate(s) and perimeter fencing as directed by the DLNR to prevent unauthorized use of the easement area as may be needed;
- 4) Limit access road improvements to a fifty (50) foot wide right-of-way that shall include an all-weather gravel road and related storm water erosion and control features;
- 5) Comply with all provisions of the Habitat Conservation Plan for the proposed project relative to the access road alignment;
- 6) Mark, fence and avoid all existing archeological sites along the easement area;
- 7) Mark and avoid large concentrations of native flora (e.g. "old-growth" wili wili) along the proposed road alignment;
- 8) Notify DLNR of completion pursuant to: a) the survey and staking of the access road alignment, b) the marking and fencing off of all archeological sites, and c) marking of large concentrations of native flora and significant concentrations of natural resources that have significant economic value;
- 9) Work with department staff, in areas that require disturbance outside the existing footprint of the existing road, to gather and relocate to a suitable staging area on government lands, large concentrations of natural resources that have significant economic value (e.g. moss rock, trees);
- 10) Seek the review and consent of the Chairperson via a Notice to Proceed with construction on areas outside the existing footprint of existing roads pursuant to compliance with natural resource protection conditions listed above and review and concurrence by department staff;
- 11) Maintain the access road via periodic grading and compacting to minimize naturally occurring erosion of the access road through out the easement term;
- 12) Reseed disturbed areas with natural vegetation that shall be approved by DOFAW prior to application;
- 13) Remove temporary markers and fencing upon completion of access road improvements in order to restore non-disturbed areas to pre-existing conditions.

DISCUSSION:

Auwahi Wind Energy, LLC, a renewable energy producer under Hawaii Revised Statutes Section 171-95, proposes to improve and utilize a network of existing dirt and gravel roads as a "construction access route" referred to as Papaka Road, consisting of 15 acres (more or less) crossing over three separate tax map keys (TMK) (2) 2-1-004: 049 and (2) 2-1-005: 055 & 077; in order to transport equipment and supplies for the proposed Auwahi wind farm. The Auwahi wind farm is to be developed on Ulupalakua Ranch property, 10 miles south of Kula, in the Auwahi District further identified as a portion of TMK (2) 1-9-001:006.

The Final Impact Statement for the Auwahi Wind Farm, dated August, 2011, evaluated five (5) different construction access routes as well as access routes via air and sea (Exhibit C). The Papaka Road alignment was identified as the preferred route for construction access due to its gentle slope, smooth topography, relatively straight road alignment, and its ability to handle "super loads."

The Papaka Road alignment transits over and across portions of currently vacant and unencumbered government lands. Most of the existing access road alignment on government lands have been in use for more than fifty (50) years.

The Final EIS describes the proposed access road to be: "approximately 20 feet wide with 9 foot wide shoulders on each side. Shoulders may be expanded to 16 feet in certain areas to allow for adequate passage." The applicant is encouraged to utilize the existing footprint of existing roads on government lands in order to minimize disturbance of raw lands as much as possible. The proposed access road easement area shall be limited to fifty (50) feet wide.

Comments were solicited and received from the Maui Division of Forestry and Wildlife and the State Historic Preservation Division. Site visits were also conducted by department staff in order to better understand site conditions and the potential adverse impacts to existing remnants of dry land forests and related cultural and natural resources on government lands.

Pursuant to review and analysis of the request, staff has concluded and recommends that all archeological sites, flora of significant interest and natural resources of significant economic value be preserved and/or protected on government owned lands.

Any road improvements that require disturbance of significant cultural and/or natural resources shall receive the review and approval of the Chairperson prior to disturbance.

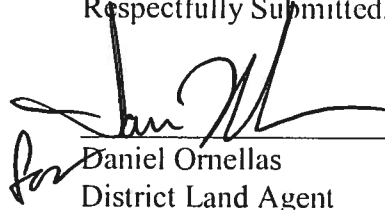
Conditions listed above under Applicant Requirements have been discussed with the applicant and they have no objections and will implement requirements as needed. The Applicant has not had a lease, permit, easement or other disposition of State lands terminated

within the last five years due to non-compliance with such terms and conditions.  
Subject to the applicant fulfilling all of the Applicant Requirements listed above, staff recommends approval of the proposed request for use of government lands

RECOMMENDATION: That the Board:

1. Subject to the Applicant fulfilling all of the Applicant requirements listed above, authorize the issuance of a term non-exclusive easement to Auwahi Wind Energy, LLC covering the subject area for access purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
  - A. The standard terms and conditions of the most current term easement document form, as may be amended from time to time;
  - B. Review and approval by the Department of the Attorney General; and
  - C. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

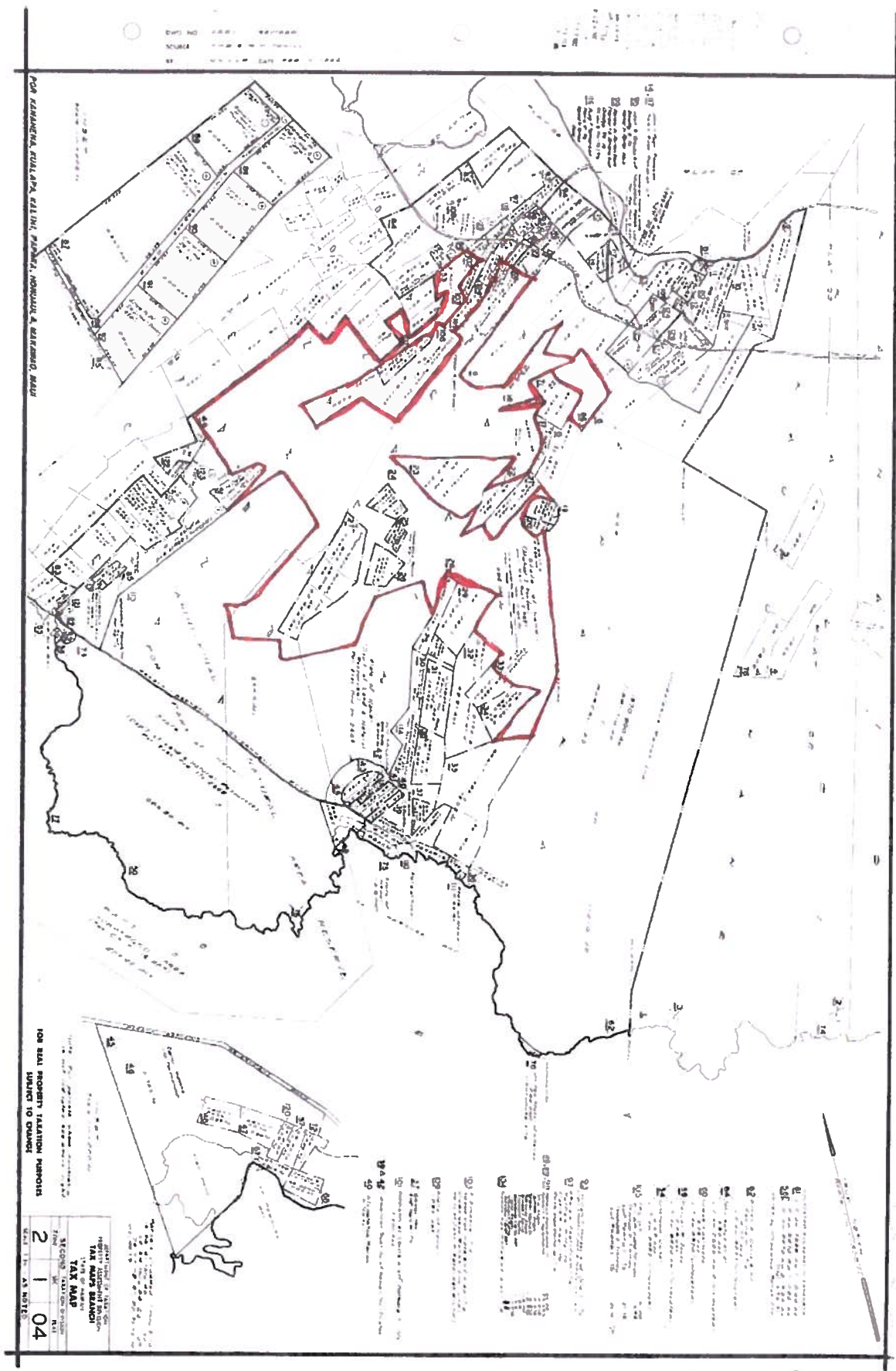
Respectfully Submitted,

  
for Daniel Ornellas  
District Land Agent

APPROVED FOR SUBMITTAL:



William J. Aila, Jr., Chairperson



**EXHIBIT A**

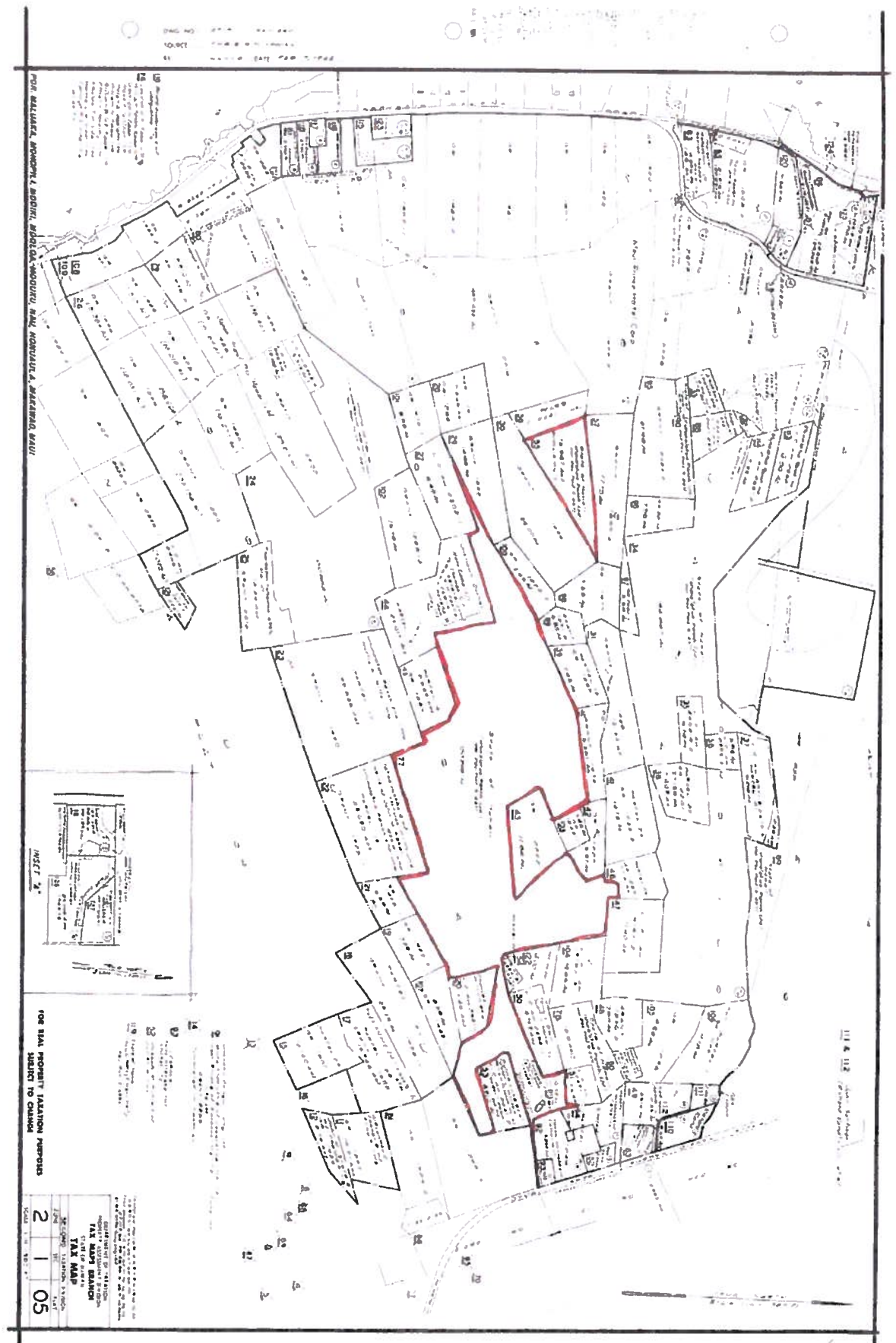


Exhibit B



## KAUWAHI WIND PROJECT CONSTRUCTION ACCESS ROUTE OPTIONS

— Existing Road

City/Town

## Kuleana Parcels

Special Management Area

TMK Parcel

## Construction Route Options

Preferred Route

Route 1

Route 2

Route 3

Route 4



0 0.25 0.5

## Notes

145,000  
AVAL, III  
NOV 20 2011  
UNIVERSITY OF MICHIGAN

**ULTRA TECH INC.**

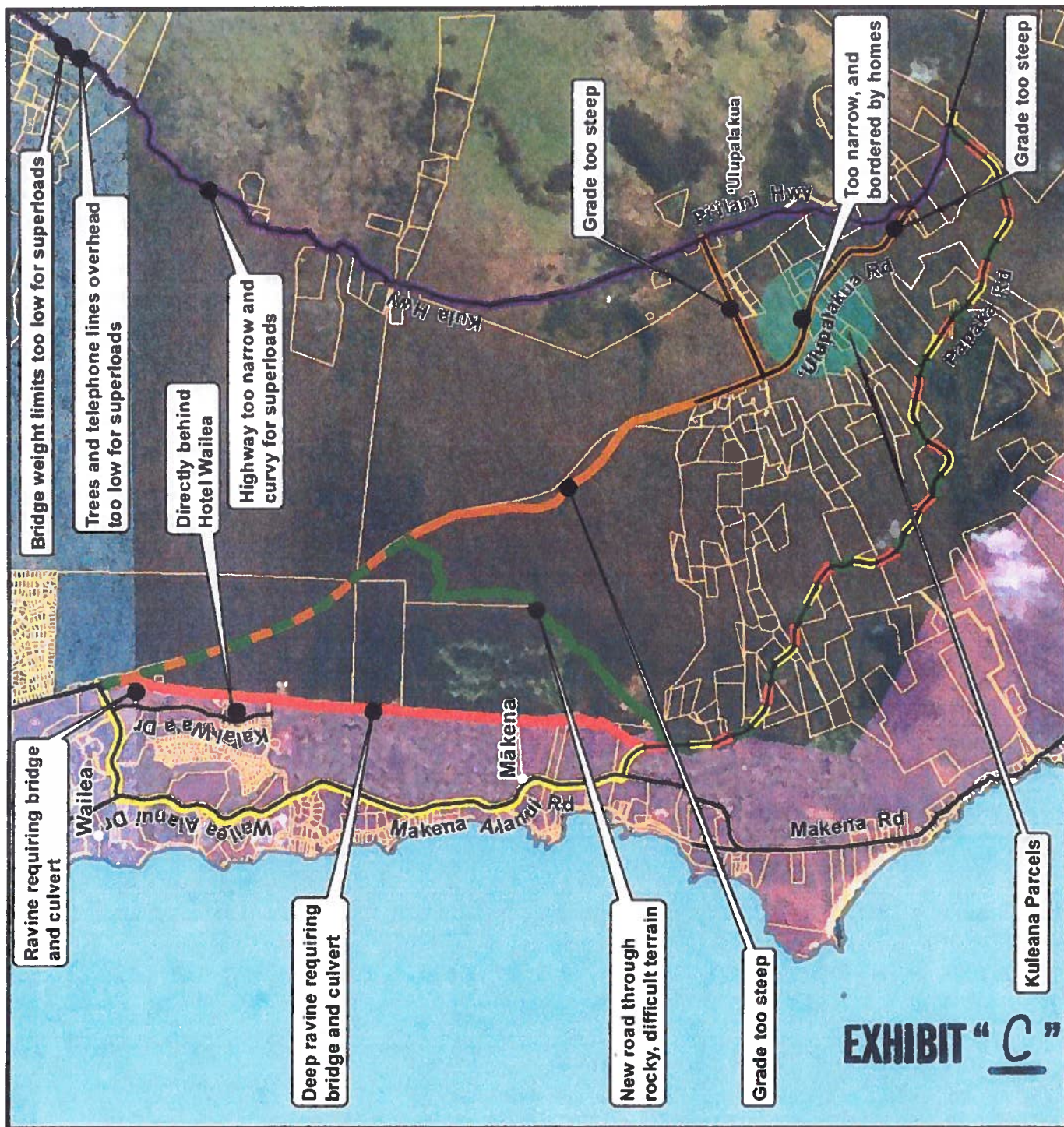
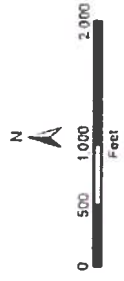


EXHIBIT "C"

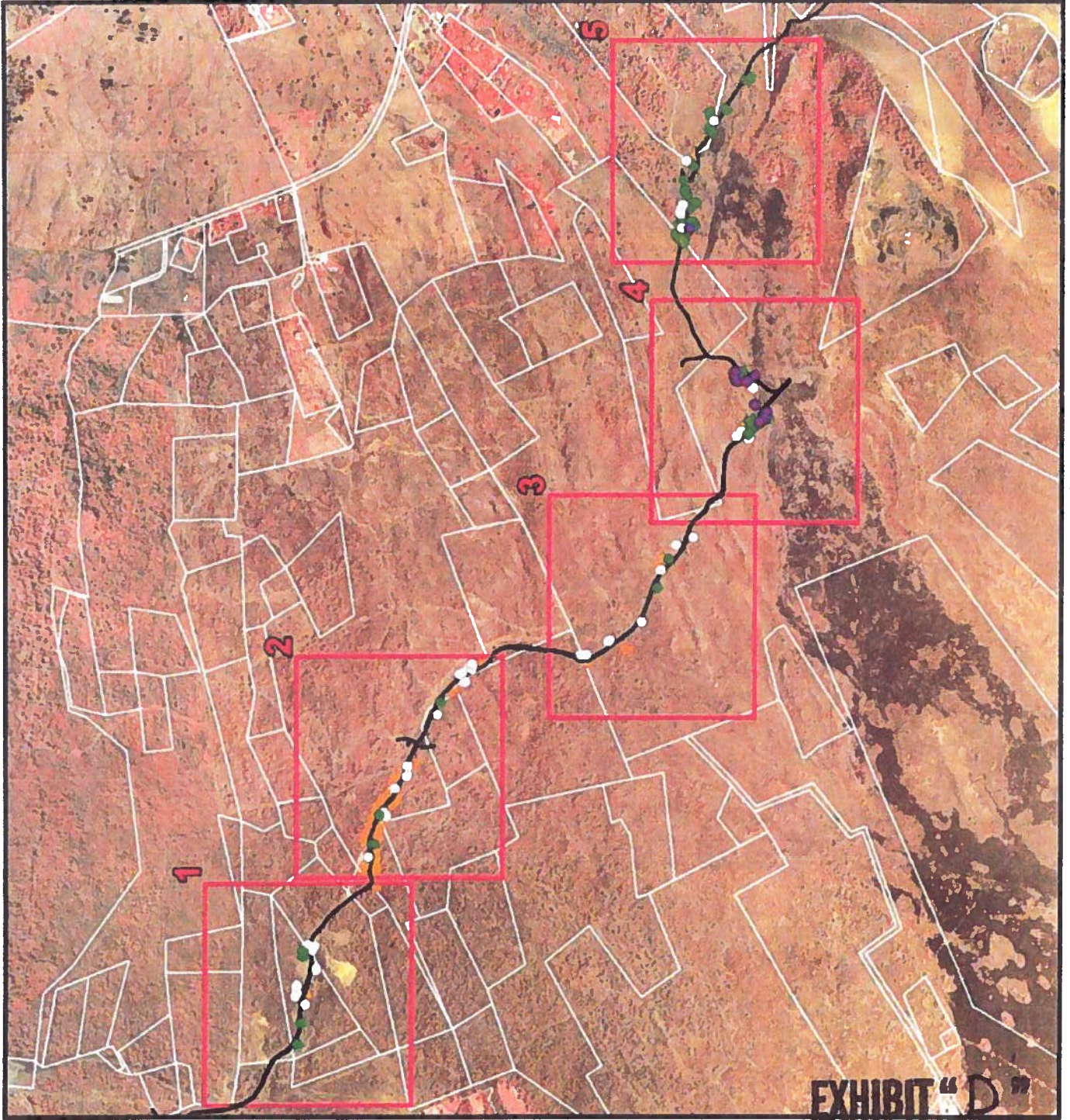


**AUWAHI WIND PROJECT  
PRECONSTRUCTION  
PLANTS OF INTEREST  
ALONG PAPAKA  
ROAD ON DLNR LAND  
INDEX MAP**

- Wiliwili Tree
- Tree Tobacco
- Mauiapllo
- Papaka Road Existing
- Wiliwili Copse
- Limits of Disturbance  
(provided by RMT)
- TMK Boundaries
- DLNR Land



UTM 500 MAUI, HI  
NAD 1983 UTM 4 FEBRUARY 22, 2012



**EXHIBIT "D"**



